FARAD CONTINUATION SHEET NO.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
NAGPUR BENCH, NAGPUR

First Appeal No. 432/2007

Appeal	District :
Application No.	of 200
Writ petition	

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's orders

Mr. S.B. Ahirkar, A.G.P. for the appellant.

CORAM : Smt. Vasanti A. Naik, J.
DATED : 21st June, 2007.

Heard Shri Ahirkar, the learned A.G.P. for the appellant-State.

By this first appeal, the appellant has challenged the judgment passed by the Civil Judge, Sr. Dn. Khamgaon on 21st July, 2003, granting compensation to the respondent for his acquired land, at the rate of Rs. 45,000/- per hectare.

The land of the respondent was acquired by the State of Maharashtra for Dhorapgaon Project. Section 4 notification was published on 9/12/1996 while Section 6 notification was published on 11/6/1998. The Land Acquisition Officer granted compensation @ Rs. 33,000/- per hectare, vide Award dated 15/1/1999. According to the respondent, his land was highly fertile and of superior quality and, therefore, the respondent claimed an additional compensation in the

reference application. The case was registered as Land Acquisition Case No. 3/2000. The respondent claimed compensation at Rs. 1 lakh per acre. The State denied the claim of the respondent. The reference Court, however, allowed the application to certain extent and granted compensation at the rate of Rs. 45,000/- per hectare. The Award is challenged in the instant first appeal.

I have perused the judgment passed by the reference Court. It appears that the respondent had examined himself and had also produced documentary evidence in the form of 7/12 extract, copies of Index Register, copies of Award passed in other Land Acquisition Cases as also other documents, to substantiate his case that the land was valued at Rs. 1 lakh per acre. In the oral evidence, the respondent, however, deposed that the market value of the land in the year 1996-1997 was ranging between Rs. 18,000/- to Rs. 19,000/- per acre. It was stated by the respondent that the acquired land was only 1 k.m. away from village Belkhed and ½ k.m. from village Dhorapgaon. He had produced copies of Index Register showing the sale instances of the lands of village Belkhed. On the basis of the sale instances mentioned in the xerox copies of Index-II Register filed on the record, the respondent claimed compensation @ Rs. 1 lakh per acre.

The reference Court, however, refused to grant compensation at the rate which was claimed by the respondent. According to the reference Court, the respondent had placed nothing on record to show that he was fetching crops of Chilies, onions and oranges from the suit land and that his yearly income was Rs. 1,50,000/-. According to the reference Court, the 7/12 extract showed that the respondent was fetching crops like Tur, Jawar and Chillies from the suit land, but he did not produce anything on record to show that the yearly income from the suit land was Rs. 1,50,000/- or that the market value of the land was Rs. 90,000/- per acre. The respondent has admitted that he had not maintained the accounts of the income and expenditure. Since the Index Register showed the sale instances of the year 2000, the reference Court has rightly discarded the same as the Section 4 notification was issued in this case in the year 1996. The reference Court, however, rightly relied on the Award passed by the reference Court in the Land Acquisition Case of village Wadji which was situated in the vicinity of the acquired land and the reference Court had granted the compensation to the claimants therein @ Rs. 49,382/- per hectare. The reference Court considered the Award passed in the aforesaid reference case on 15/1/1999 which showed that the reference Court had considered the

sale instances for the period ranging from 1993 to 1996 to grant compensation @ Rs. 49,382/- per hectare. In this matter, however, the reference Court did not grant Rs. 49,382/- per hectare as according to the reference Court, the lands in the other reference case, were irrigated lands having fruit bearing trees, but, there is nothing in this case to show that there were fruit bearing trees on the acquired land. The reference Court held that the 7/12 extract and Exh.18, however, further did not show that the land was irrigated land. The reference Court, thus, taking an overall view of the matter, granted compensation @ Rs. 45,000/- per hectare. I find no fault with the approach adopted by the reference Court. The findings arrived at by the reference Court are just and reasonable.

For the reasons aforesaid, the appeal is dismissed with no order as to costs.

JUDGE

RMP